



Texas Department of Insurance

Division of Workers' Compensation

Medical Fee Dispute Resolution, MS-48

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MEDICAL FEE DISPUTE RESOLUTION FINDINGS AND DECISION

GENERAL INFORMATION

Requestor Name and Address

EDWARD F. WOLSKI, M.D/WOL+MED
2436 I-35 E. SOUTH STE #336
DENTON, TX 76205

Respondent Name

FIDELITY & GUARANTY INSURANCE

Carrier's Austin Representative Box

BOX NUMBER 19

MFDR Tracking Number

M4-09-0280-01

MFDR Date Received

OCTOBER 19, 2006

REQUESTOR'S POSITION SUMMARY

Requestor's Position Summary: "Claims for dates of service 10/20, 10/26, 10/28, 11/02/05, 2/27, 3/7 and 4/6/06 were submitted to the carrier as a Request for Reconsideration. This was submitted to the carrier by signature confirmation mail...it was received 7/10/2006. The claims for dates of service 10/20, 10/26, 10/28 and 11/02/05 originally denied with ANSI code W12. We believed that this denial was in response to the ICD-9 code that was used. We believed that this denial was in response to the ICD-9 code that was used. We correct the error and resubmitted the claims for reconsideration. The carrier denied payment with ANSI code 29. We feel that this is incorrect as the claims were initially filed within the 95 day filing deadline. Date of service 2/27 for CPT code 97546 originally denied as a duplicate billing. In the Request for Reconsideration, it was explained to the carrier that the patient underwent 8 hours of a Work Hardening program and that the codes were not a duplicate. The carrier then denied with ANSI W1...As our claims were filed correctly and in a timely manner, we expect and are entitled to interest included with the claim payment."

Amount in Dispute: \$1,051.63

RESPONDENT'S POSITION SUMMARY

Respondent's Position Summary: "A provider must make a timely and valid request for reconsideration before requesting medical dispute resolution. 28 TAC 133.250(d)...In the immediate case the carrier disputes that the provider submitted any claim-specific substantive explanation with its request for reconsideration. It appears from the MDR submission that all the provider submitted was the original bill(s) and the EOB(s). Accordingly, the carrier contends that the request was incomplete and fails to satisfy the prerequisite for medical dispute resolution. This matter is not ripe for review and should be dispute pursuant to 28 TAC 133.307(m)(3)."

Response Submitted by: Flahive, Ogden & Latson, 504 Lavaca, Ste 1000, Austin, TX 78701

SUMMARY OF FINDINGS

Dates of Service	Disputed Services	Amount In Dispute	Amount Due
October 20, 2005 to April 6, 2006	97032, 97035, 97110, 97113, 95831, 90801, 90889, 97546, 99080	\$1,051.63	\$128.00

FINDINGS AND DECISION

This medical fee dispute is decided pursuant to Texas Labor Code §413.031 and all applicable, adopted rules of the Texas Department of Insurance, Division of Workers' Compensation.

Background

1. 28 Texas Administrative Code §133.307 sets out the procedures for health care providers to pursue a medical fee dispute.
2. 28 Texas Administrative Code §133.20 sets out the procedures for health care providers to submit workers' compensation medical bills for reimbursement.
3. 28 Texas Administrative Code §134.204 sets out the fee guidelines for the reimbursement of workers' compensation specific services provided on or after March 1, 2008.
4. 28 Texas Administrative Code §133.250 sets out the procedures for health care providers to submit bills for reconsideration.
5. 28 Texas Administrative Code §102.4 sets out the rules for non-Commission communications.
6. Texas Labor Code §408.027 sets out the rules for timely submission of a claim by a health care provider.
7. Texas Labor Code §408.0272 sets out the rules for certain exceptions for untimely submission of a claim by a health care provider.
8. On September 10, 2010, MFDR received an updated Table of Disputed Services from the requestor. According to the updated Table of Disputed Services, the requestor is only disputing dates of service October 20, 2005, October 26, 2005 and February 27, 2006. Therefore, only these dates of service will be considered in this review.
9. The services in dispute were reduced/denied by the respondent with the following reason codes:
 - Explanation of benefits dated January 5, 2006
 - W12- Extent of injury, not finally adjudicated
 - Explanation of benefits dated March 21, 2006
 - 18-Duplicate claim/service.
 - BL-For all reconsiderations/adjustments/payment dispute requests please submit a copy of this EOR.
 - Explanation of benefits dated August 7, 2006
 - 29-The time limit for filing has expired.
 - BL-For all reconsiderations/adjustments/payment dispute requests please submit a copy of this EOR.
 - Explanation of benefits dated August 7, 2006
 - W1-This line was included in the reconsideration of this previously reviewed bill.

Issues

1. What is the timely filing deadline applicable to the medical bills for the services in dispute?
2. Did the bill that was submitted on July 6, 2006 for dates of service October 20, 2005 and October 26, 2005 meet the requirements of a reconsideration submission in accordance with Texas Administrative Code §133.250 and/or was bill submitted in accordance with Texas Labor Code §408.027? Does file contain unresolved issues?
3. Did the requestor submit a duplicate bill for date of service February 27, 2006? Did the requestor forfeit the right to reimbursement for the services in dispute?

Findings

1. 28 Texas Administrative Code §133.20(b) states, in pertinent part, that, except as provided in Texas Labor Code §408.0272, "a health care provider shall not submit a medical bill later than the 95th day after the date the services are provided." No documentation was found to support that any of the exceptions described in Texas Labor Code §408.0272 apply to the services in this dispute. For that reason, the requestor in this dispute was required to submit the medical bill not later than 95 days after the date the disputed services were provided.
2. Texas Labor Code §408.027(a) states, in pertinent part, that "Failure by the health care provider to timely submit a claim for payment constitutes a forfeiture of the provider's right to reimbursement for that claim for payment." 28 Texas Administrative Code §102.4(h) states that "Unless the great weight of evidence indicates otherwise, written communications shall be deemed to have been sent on: (1) the date received, if sent by fax, personal delivery, or electronic transmission or, (2) the date postmarked if sent by mail via United States Postal Service regular mail, or, if the postmark date is unavailable, the later of the signature date on the written communication or the date it was received minus five days. If the date received minus five days is a Sunday or legal holiday, the date deemed sent shall be the next previous day which is not a Sunday or legal holiday."

Review of the submitted information finds a bill with dated November 18, 2005 in box 31 for dates of service October 20, 2005 and October 26, 2005 received initially on November 28, 2005 by the respondent. The respondent denied bill with denial code "W12- Extent of injury, not finally adjudicated". The requestor indicates in their letter of reconsideration to the respondent dated, July 6, 2006, that they believed the denial was in response to the ICD-9 code that was used and therefore corrected the bill and resubmitted bill for payment. The requestor did not maintain the original denial of "W12- Extent of injury, not finally adjudicated" upon resubmission of the bill. No documentation was found by the Division to support that the respondent is disputing the extent of injury for this claim with form PLN-11 (Notice of Disputed Issue(s) and Refusal to Pay Benefits). The insurance carrier's denial reason is not supported. These services will therefore be reviewed per applicable Division rules and fee guidelines. 28 Texas Administrative Code §133.250 states in pertinent part, "(d) The request for reconsideration shall: (1) reference the original bill and include the same billing codes, date(s) of service, and dollar amounts as the original bill." Additional review of the requestor's documentation finds that the corrected bill dated, July 5, 2006, did not reference the same billing codes and dollar amounts as the original bill. Therefore, the Division concludes that the respondent correctly processed the bill as a new bill and appropriately denied services with denial code, "29-The time limit for filing has expired." Therefore, pursuant to Texas Labor Code §408.027(a), the requestor in this medical fee dispute has forfeited the right to reimbursement due to untimely submission of the medical bill for the services in dispute.

3. Review of the requestor's documentation finds a copy of a bill dated July 5, 2006 for DOS February 27, 2006 CPT code 97546-WH-CA, USPS signature confirmation receipt dated July 10, 2006 and an EOB dated March 21, 2006 denying bill as a duplicate. The duplicate billing submitted on July 10, 2006 was for the purpose of requesting reconsideration of the original claim determination. The respondent did not provide documentation to support this payment denial reason. The requestor has submitted documentation to support services rendered. Reimbursement is recommended per 28 Texas Administrative Code §134.204(h)(3)(A) as follows: CPT code 97546-WH-CA: \$64/hour x 2 hours = \$128.00 is recommended.

Conclusion

For the reasons stated above, the division finds that the requestor has established that reimbursement is due. As a result, the amount ordered is \$128.00.

ORDER

Based upon the documentation submitted by the parties and in accordance with the provisions of Texas Labor Code Sections 413.031 and 413.019 (if applicable), the Division has determined that the requestor is entitled to additional reimbursement for the services involved in this dispute. The Division hereby ORDERS the respondent to remit to the requestor the amount of \$128.00 plus applicable accrued interest per 28 Texas Administrative Code §134.130, due within 30 days of receipt of this Order.

Authorized Signature

Signature

Medical Fee Dispute Resolution Officer

06/28/2012

Date

YOUR RIGHT TO APPEAL

Either party to this medical fee dispute may appeal this decision by requesting a contested case hearing. A completed **Request for a Medical Contested Case Hearing** (form **DWC045A**) must be received by the DWC Chief Clerk of Proceedings within **twenty** days of your receipt of this decision. A request for hearing should be sent to: Chief Clerk of Proceedings, Texas Department of Insurance, Division of Workers Compensation, P.O. Box 17787, Austin, Texas, 78744. The party seeking review of the MDR decision shall deliver a copy of the request for a hearing to all other parties involved in the dispute at the same time the request is filed with the Division. **Please include a copy of the *Medical Fee Dispute Resolution Findings and Decision* together with any other required information specified in 28 Texas Administrative Code §148.3(c), including a **certificate of service demonstrating that the request has been sent to the other party.****

Si prefiere hablar con una persona en español acerca de ésta correspondencia, favor de llamar a 512-804-4812.